

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE: TERRORIST ATTACKS ON :
SEPTEMBER 11, 2001 : **03-MDL-1570 (GBD)(SN)**

This Document Relates To:

Ashton, et al. v. al Qaeda Islamic Army, et al., Case No. 02-cv-6977 (GBD)(SN)
Burlingame, et al. v. bin Laden, et al., Case No. 02-cv-7230 (GBD)(SN)

NOTICE OF AMENDMENT

Plaintiff Caroline Breitweiser files this Notice of Amendment with respect to the underlying *Ashton* Third Amended Consolidated Master Complaint through the *Ashton* Sixth Amended Consolidated Master Complaint, *Ashton* ECF Doc. Nos. 38, 111, 465, in order to receive the benefit of the 2006 default judgment on liability in favor of the Breitweiser family and against the Taliban entered by this Court on May 12, 2006, at MDL ECF Doc. No. 1797.

Upon the filing of this Notice of Amendment, the underlying Complaints are deemed amended to include Caroline Breitweiser as a named Plaintiff. Caroline Breitweiser is the only surviving child of Ronald Breitweiser, Deceased. Caroline Breitweiser, who was a minor child when the *Burlingame* and *Ashton* cases were filed, was included in the operative *Ashton* Third and Sixth Amended Consolidated Master Complaints as:

KRISTEN BREITWEISER, Individually,
as Personal Representative of the Estate of
RONALD BREITWEISER, Deceased, and on behalf of
all survivors of RONALD BREITWEISER;

Because Plaintiff Caroline Breitweiser was a minor at the time of the filing of the underlying *Burlingame* and *Ashton* complaints, she was not specifically named in the underlying *Ashton* Third and Sixth Amended Consolidated Master Complaints, but was represented by her mother, Kristen Breitweiser. Caroline Breitweiser's claims are encompassed in the language "on

behalf of all survivors of Ronald Breitweiser.” Naming the minor child Caroline Breitweiser as set forth above comports with New York state wrongful death law, which grants standing only to the personal representative of a decedent to bring an action exclusively for the benefit of the decedent’s distributees. EPTL § 5-4.1; § 5-4.4(a); *Frometa v. Mar-Can Transportation Company, Inc.*, 148 N.Y.S.3d 613 at 624, 72 Misc.3d 316 at 326-27 (2021) (because only the personal representative can bring an action for wrongful death for the exclusive benefit of the distributees, “a spouse or child, in their individual capacity, lack standing to assert such claims on behalf of the decedent” and proposed causes of action based on their individual claims were “duplicative”).

Plaintiff files this Notice of Amendment to add specifically Caroline Breitweiser, who is now an adult, to the caption of the *Ashton* Third and Sixth Amended Consolidated Master Complaints.

The underlying pleadings are deemed amended to include the factual allegations, jurisdictional allegations, all causes of action against the Taliban specified below, and jury trial demand of the Third through Sixth Amended Consolidated Master Complaints. The amendment effected through this Notice of Amendment supplements by incorporation into, but does not displace, the underlying Complaint.

CAUSES OF ACTION

The New Plaintiff hereby adopts and incorporate herein by reference the following causes of action against the Taliban set forth in the *Ashton* Third through Sixth Consolidated Master Complaints:

☒ **Ashton Third through Sixth Amended Consolidated Master Complaints (check all causes of action that apply):**

- ☒ COUNT I – Wrongful Death Based on Intentional Murder
- ☒ COUNT II – Survival Damages Based on Intentional Murder
- ☒ COUNT III – Assault and Battery
- ☒ COUNT IV – Aiding and Abetting and Conspiring with Al Qaeda to commit the September 11th Attacks upon the United States in Violation of 18 U.S.C. § 2333(a)
- ☒ COUNT V – Torture Victim Protection Act
- ☐ COUNT VI – 28.U.S.C. § 1605(a)(7)
- ☒ COUNT VII – Punitive Damages
- ☐ COUNT VIII – Property Damage.

IDENTIFICATION OF NEW PLAINTIFFS

Caroline Breitweiser is a survivor of a Ronald Breitweiser, who died in the terrorist attacks of September 11, 2001. For each New Plaintiff, the following chart lists the New Plaintiff's name, the New Plaintiff's residency and nationality, the name of the New Plaintiff's deceased family member, the New Plaintiff's relationship to the decedent, and the paragraph(s) of the underlying Complaint discussing the decedent and/or the decedent's estate.

	New Plaintiff's Name (alphabetical by last name)	State of Residency at Filing (or death)	Citizenship / Nationality on 9/11/2001	Decedent's Name	New Plaintiff's Relationship to Decedent	Complaint Discussing Decedent
1	Breitweiser, Caroline	NJ	US	Breitweiser, Ronald	Child	<i>Burlingame</i> , ECF Doc. No. 1; <i>Ashton</i> ECF Doc. No. 111

Respectfully Submitted,

Date: October 12, 2022

/s/ Timothy B. Fleming
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Caroline Breitweiser*